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From; Mr. *G. H. Schorel-Hlavka,* **Australia**

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WITHOUT PREJUDICE

House of Representatives Legal and Constitutional Affairs Committee MH 10-1-2007

laca.reps@aph.gov.au

Phone (02) 6277 2358 Re; **SUBMISSION**; Older Australians, etc

AND TO WHOM IT MAY CONCERN

Sir,

Being myself 59 and my wife 74, I for one do believe it is excellent that a Committee seeks to look into matters regarding "**Older Australians**", albeit as a Grandmaster "**constitutionalist**" and Author of many books in the **INSPECTOR-RIKATI®** series of books on CD I have concerns as to constitutional limitations in that regard. After all the Federal Parliament and so also the Federal Government has limited constitutional powers as to what it can provide for. The term "**Older Australians**" does require that we look at what is an Australian! While we often encounter clashes between the States/Territories and the Federal Government blaming each other about health, education, and other matters, the true constitutional position is that only one had legislative powers at anyone time. Hence, the passing of the buck system, so to say, is merely indicating that neither level of Government really comprehend how constitutional powers and limitations are applicable.

"**Older Australians**" often are then caught up in this. In my books I have pursued for some years now that we should have an OFFICE OF THE GUADIAN, a constitutional council, that advises the Government, the people, the Parliament and the Courts as to what is constitutionally permissible and what are the powers and limitations.

Some of my previously published books are;

30 September 2003;

INSPECTOR-RIKATI® on CITIZENSHIP
A book on CD about Australians unduly harmed.
ISBN 978-0-9580569-6-0 was ISBN 0-9580569-6-X

6-7-2006;

INSPECTOR-RIKATI® & What is the -Australian way of life- really?
A book on CD on Australians political, religious & other rights
ISBN 978-0-9751760-2-3 was ISBN 0-9751760-2-1

For example, many people are perceiving that they are not citizens because they are not deemed to be an "Australian Citizen" even so constitutionally they in fact are. As I have set out in my various books and on 19 July 2006 successfully, unchallenged by Government lawyers, argued before the Court, "**Australian citizenship**" is not a nationality but can only be obtained **AUTOMATICALLY** when obtaining "**State Citizenship**". Sure there is a ***Australian Citizenship Act 1948*** that purports to define/declare "**citizenship**" just that there was never any constitutional powers, in fact it was specifically refused by the Framers of the ***Constitution***, to give the Commonwealth of Australia such powers.

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What we have is that many of the elderly, not naturalized by this are deceived as to their constitutional and other legal rights.

Hansard *2-3-1898* Constitution Convention Debates;

Mr. DEAKIN.-

In this Constitution, although much is written much remains unwritten,

Hansard *31-1-1898* Constitution Convention Debates

Mr. SOLOMON.-

We shall not only look to the Federal Judiciary for the protection of our interests, but also for the just interpretation of the Constitution:

Hansard *20-4-1897* Constitution Convention Debates;

Mr. CARRUTHERS:

Why should we take away from the people a **civil right** which has nothing to do with Federation?

And

Mr. CARRUTHERS: **We are becoming a dependency; we are a dependency; we, are not an independent nation.**

Hansard *2-3-1898* Constitution Convention Debates;

Mr. BARTON.-I did not say that. **I say that our real status is as subjects, and that we are all alike subjects of the British Crown.**

And

Mr. SYMON.-

Dual **citizenship** exists, but it is not dual **citizenship** of persons, it is dual **citizenship** in each person. **There may be two men-Jones and Smith-in one state, both of whom are citizens of the state, but one only is a citizen of the Commonwealth. That would not be the dual citizenship meant. What is meant is a dual citizenship in Mr. Trenwith and myself. That is to say, I am a citizen of the state and I am also a citizen of the Commonwealth; that is the dual citizenship.**

And

Mr. SYMON.-The honorable and learned member is now dealing with another matter. Would not the provision which is now before us confer upon the Federal Parliament the power to take away a portion of this dual **citizenship**, with which the honorable and learned member (Dr. Quick) has so eloquently dealt? If that is the case, what this Convention is asked to do is to hand over to the Federal Parliament the power, whether exercised or not, of taking away from us that **citizenship** in the Commonwealth which we acquire by joining the Union. I am not going to put that in the power of any one, and if it is put in the power of the Federal Parliament, then I should feel that it was a very serious blot on the Constitution, and a very strong reason why it should not be accepted. It is not a lawyers' question**; it is a question of whether any one of British blood who is entitled to become a citizen of the Commonwealth is to run the risk-it may be a small risk-of having that taken away or diminished by the Federal Parliament!** When we declare- "Trust the Parliament," I am willing to do it in everything which concerns the working out of this Constitution, but I am not prepared to trust the Federal Parliament or anybody to take away that which is a leading inducement for joining the Union.

Mr. TRENWITH: A nation within a nation.

Hansard *2-3-1898* Constitution Convention Debates;

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Mr. HIGGINS.-The particular danger is this: That we do not want to give to the Commonwealth powers which ought to be left to the states. The point is that we are not going to make the Commonwealth a kind of social and religious power over us.

And

For instance, our factory laws are left to the state.

We have that even the High Court of Australia in the recent Stefan Nystrom case (***Minister for Immigration and Multicultural and Indigenous Affairs v Nystrom*** [2006] HCA 50 (8 November 2006) case) refers to "**non-citizens**" term in the Migration Act, ignoring the fact that there was never a Section 128 Referendum to approve the transfer of legislative powers from the States to the Commonwealth in regard of "**citizenship**" and the Commonwealth of Australia simply cannot just grab such legislative powers from the states.
This submission does not require for me to set out in details the constitutional and legal history about "citizenship" as my various books have already done so, but if the Federal parliament really are eager to address the issues regarding "**Older Australians**" then first of all it must get the constitutional foundation right.

"**Australian Citizenship**" was used by the Framers of the ***Constitution*** before the colonies (now States) federated. It simply refers to a person having obtained "citizenship" and so political rights obtained in a State and by this **AUTOMATICALLY** those in the Commonwealth of Australia.
The Framers of the ***Constitution*** used both terms "Australian citizenship" and "commonwealth citizenship" for the same meaning.

Now one may ask; Why on earth have "Australian citizenship" automatically?
Well, the basis is that the colonies gave up certain legislative powers for the formation of a LIMITED "political union" (as like the European Union is) called the "COMMONWEALTH OF AUSTRALIA", and as such the residents in the colonies (now States) would be entitled to vote in elections for the Federal union as after all the Commonwealth of Australia is, so to say, an agent for the States acting on their behalf in matters provided for in the ***Constitution***.

The Framers of the Constitution also made clear that the Commonwealth of Australia could not interfere with the right of any British born national to enter the Commonwealth of Australia unless it used its special provided constitutional powers. As they made clear a person born in the UK upon settle in the Commonwealth of Australia would AUTOMATICALLY obtain "State citizenship" and by this "Automatically Australian citizenship".
As Edmund Barton made clear on 2-3-1898;

"We are all alike subjects of the British Crown."

Edmund Barton was born in the Colony of NSW and later became the second Prime Minister of the Commonwealth of Australia, this after the first appointed Prime Minister of the Commonwealth of Australia resigned his commission within 6 days, being then the Prime Minister of the colony of NSW, being unable to form a Government.

While the High Court of Australia in ***Sue v Hill***, purported that Heather Hill was not entitled to be in the Senate, and basically kicked her out, the truth is she was constitutionally entitled to be in the Parliament. You cannot swear allegiance to a Monarch under whom you already are, as Heather Hill already was since birth.

A major problem is that judges are appointed by a Federal Government and the Governor-General, so to say, merely rubber stamp this and by this we have political appointment of judges to the High court of Australia who after more then one hundred years still do not comprehend

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what is constitutionally applicable. Judges are appointed who may have next to no constitutional knowledge. One judge even refusing to hand down a judgment upon the basis he didn't know what was constitutionally applicable.

This too underlines the need for an **OFFICE OF THE GUARDIAN**, a constitutional council, so it can advise anyone, regardless of being a politician, a member of the GENERAL COMMUNITY or a judicial officer with untainted and unbias advise.

It should be kept in mind that after a 5-year long legal battle I succeeded in the Courts on these and other legal issues against the Government lawyers. Not a single constitutional issue raised by me was challenged, let alone disproved.

And, this includes that Section 245 of the Commonwealth electoral Act 1918 is unconstitutional for so far it demands compulsory voting and for so far it provides for "religious objection" not to vote.

Firstly, in April 1897 the Framers of the ***Constitution*** rejected compulsory registration and voting, as and the 1915 proposed Referendum to give the Commonwealth of Australia constitutional powers to make voting compulsory was not proceeded with. In fact the constitutional powers of the Commonwealth of Australia tom make any electoral provisions was set out by the Framers of the ***Constitution*** to be upon the basis of considering the most liberal voting system applicable in all States. Indeed, Section 41 of the ***Constitution*** was based upon this very much also. It was also made clear that once there was a federation the States could not at will change their legislation as to somehow undermine the legislative powers of the Commonwealth of Australia as only those legal provisions as in force until the commonwealth of Australia was to legislate could be deemed applicable and enforceable. The Commonwealth of Australia neither could legislate to rob any "citizen" rights already obtained prior to it commencing to legislate on a certain matter.

Hence, the need to set a age limit of adulthood, then being 21, as some colonies were considering a possible age reduction before federation as to maximize voting powers. Basically, the Commonwealth of Australia could reduce the age limit of voting but could not increase it to cause people to loose their rights guaranteed by Section 41 of the ***Constitution***.

The Framers also opposed any form of "retrospective legislation" as they made clear that you could not turn a person into some criminal where the person at the time may have acted within the legislative provisions. Hence, changing the Permanent Permits (Nystrom case an example) into a Visa system is unconstitutional as it has a retrospective effect that Stefan Nystom was having his Permanent Permit to live in the Commonwealth of Australia altered to a visa system, that didn't exist at the time his permit was issued to him.

While the High Court of Australia referred to the speech of the then Senator Button to make it all equal, the truth is that constitutionally those born in the United Kingdom or any part of the realm could enter the Commonwealth of Australia without any powers by the Commonwealth of Australia to do so unless it exercises its special powers provided such as that the person had a criminal record or was of a special "coloured" race. As such, whatever Senator Button at the time may have stated to be the intention it was irrelevant as no parliament can override constitutional limitations!

Constitutionally the only way to deny any British national entry into the Commonwealth of Australia was to use the "criminal" powers or use the "coloured race powers in subsection 51(xxvi) of the ***Constitution***.

The Framers of the ***Constitution*** were concerned that the Commonwealth of Australia could be flooded by coloured people from India and other parts of the world who were deemed to be

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inferior to them and not wanting this it was therefore decided to give the "coloured" race power to the Commonwealth of Australia to keep it a "WHITE AUSTRALIA". However, they also made clear that any person of a "coloured" race that was subjected so special legislation, even those who were born in the Commonwealth of Australia, then would be denied "citizenship" and so both State and Australian citizenship. As such each and every person of that "coloured" race would be made a "**non-citizen**". Obviously this was to prevent such a "coloured" race to use its power to vote and get rid of a special legislation against them.

More over, the Framers of the ***Constitution*** (the **Commonwealth Constitution Bill 1898**, later to become the ***Commonwealth of Australia Constitution Act 1900*** (UK) as amended, that his special "race" power in subsection 51(xxvi) of the ***Constitution*** could not be used against the "GENERAL COMMUNITY". Hence, as I successfully and so unchallenged by the government lawyers, placed before the Court, the ***Racial Discrimination Act 1975*** is unconstitutional. This is not a law against a specific "coloured" race but against the GENERAL COMMUNITY and as such ULTRA VIRES (without legal force). However, its effect is that any person that is subject to this law has AUTOMATICALLY lost citizenship! Meaning that any person subject to the provisions of the **Racial Discrimination Act 1975** "technically" became a "**non-citizen**".

The con-job 1967 referendum didn't give Aboriginals any voting powers as Aboriginals voted in the first Federal election and as the Framers of the Constitution made clear the Commonwealth of Australia could not rob them of their electoral rights whatsoever. Aboriginals were referred to as native Australians and the term "Aboriginal Australians" is a constitutional nonsense. Subsection 51(xxvi) was specifically created to protect Aboriginals from any harm by the Commonwealth of Australia to rob them of their constitutional rights. As such, the **WHITE ONLY** legislation for voting in effect was UNCONSTITUTIONAL, and UNCONSTITUTIONALLY robbed Aboriginals of their right to vote. The 1967 con-job referendum could not do anything in that regard and was not needed as Aboriginals, who had been granted citizenship in their State by Section 41 of the Constitution were protected as to their franchise in the Federation. Prior to the 1967 con-job referendum a Federal Government then contemplated to remove the wording "Aboriginal" from Subsection 51(xxvi) but then was provided with legal advise that this was not the correct manner to obtain legislative powers as to Aboriginals as the subsection had a special meaning. Hence, the then proposed referendum was not proceeded with. In 1967 however, this kind of advice may not have been presented. Now we find that Aboriginals are subjected to all kinds of legislative provisions under the amended Section 51(xxvi) but the Parliament and the Government do not comprehend that the amendments as approved in 1967 gives it only constitutional powers to make laws regarding Aboriginals that relates to all persons of that race! Hence, there is no constitutional powers for the Commonwealth of Australia to make specific legislation (Hindmarsh Bridge for example, despite what the High Court of Australia stated) as it is not a law governing all persons of that Aboriginal race. What we did with the 1967 referendum was to remove Aboriginals from being equally to any other Australian and reclassified them as a "coloured" race and made them with subsequent legislation to be "**non-citizens**".

Without an **OFFICE OF THE GUARDIAN**, many Aboriginals wouldn't have a clue what are their constitutional rights and that many of the Federal legislative enactments are and remain unconstitutional where they are not laws that are in regard of all people of the Aboriginal race.

Ironically, rather to get away from the **WHITE AUSTRALIA** policy, the 1967 referendum ensured a continuation of the **WHITE AUSTRALIAN** policy, just that no one in the parliament and/or the Government comprehended what it was about to have the referendum and its real constitutional affect. Without an **OFFICE OF THE GUARDIAN** to explain the true historical constitutional position and application, electors were swindled into voting for something they believe was in the interest of the Aboriginals but in fact ended up worse for them.

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Members of Parliament and those in government may have had the best intentions at the time and rewarded the leading Aboriginal to achieve this referendum to be approved with a **HUMAN RIGHTS MEDAL**, while in fact they were achieving the worst possible outcome.

Anyone who were to be in power could effectively reduce the rights of Aboriginals, merely by enforcing constitutional provisions, to be "non-citizens" and have them deported under the ***Migration Act*** as "non-citizens". Just that again as a Grandmaster "constitutionalist" I am aware that this also is a power grossly abused and misuse by the government.

No person can be detained/deported in the Commonwealth of Australia but by a "judicial decision" of a State Court.

Sure, the Federal Parliament may have enacted in the ***Migration Act*** that the Minister can order the detention/deportation of a person, but what the High Court of Australia never seems to have comprehended was that the Framers of the ***Constitution*** made clear that it cannot be enforced against any person unless the person was "accused" (formally charged" and a State Court by "judicial decision" ordered so. As the Framers of the ***Constitution*** made clear, the Commonwealth of Australia had no constitutional powers to enforce its own laws, as this was upon the State Courts and State law-enforcement agencies and they could NULLIFY Commonwealth law and decisions.

While Section 77 of the ***Constitution*** does allow for the Federal Parliament to create new Courts it must be placed in the proper contexts and that it cannot deal with religious, civil, social and other property matters as they were specifically withheld from Commonwealth legislative powers. The Family Court of WA is in effect the only constitutional Court dealing in that regard with matters as a Family Court as the Family Court of Australia itself is a constitutional nonsense.

The nonsense that now exist, for example, is that while my 9 children all are adults, I now receive child support and will do so for years to come, I didn't get when I was a single parent, as the mother of one of the children then refused to comply with a court order.
This is an absurdity that results when the Commonwealth of Australia meddles into matters beyond its constitutional powers.
In the Abbott case even the high Court of Australia decided that Mr. Abbott owned the child-support and dismissed his appeal, and then the child Support Agency refunded the monies already collected as they made known that he didn't own the monies at all. Where we have even the High Court of Australia handing down decision which are a constitutional nonsense in that regard to enforce a non-existing debt then how on earth can people know what is applicable? Yes, Mr Abbott has the refund cheque framed as to show the absurdity.
As the Framers of the ***Constitution*** made clear the powers provided for custody and divorce would not be as to turn the children into some kind of slaves of the Commonwealth of Australia. While much is claimed to be "incidental powers", such as the recent 14 November 2006 High Court of Australia Industrial Relations decision, my 26-7-2005 correspondence to Mr John Howard sets out that the companies provisions never could be used for "Industrial Relations".
If we have judges of the High Court of Australia being unable to comprehend what is constitutionally applicable then the poor sole who desires to seek his/her rights.

Yes, the "**Older Australians**" are in fear that they could be deported by some ridiculous argument as they never naturalised, they are fearful that they do not have the same rights as others because they belong to some race, etc.

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Again, if you cannot get the foundations correct then you are asking for troubles.

"enduring power of Attorney" is a State power and has nothing to do with the Commonwealth of Australia. However, I would be the first one to recognise this can be grossly abused and also grossly denied , wrongly, by Federal government Department.

I for one hold "ENDURING POWER OF ATTORNEY" of many persons. They trust me to act honourable. In a most recent case a business man went overseas and I was informed by his brother he had an accident and was in hospital with a head fracture and prevented to travel back to the Commonwealth of Australia regarding a case against him, of an about $900.00 claimed outstanding bill and lawyers were to be engaged. As I possess ENDURING POWER OF ATTORNEY I was therefore entitled to make decisions I deemed appropriate in the circumstances, including the engagement of any lawyer, as the ENDURING POWER OF ATTORNEY in fact specifically provided for this. I asked the brother for the phone number so I could phone the injured business man and was informed he didn't have any. I then made clear that I could not authorise any lawyer to get involved at a quoted cost of $4,000.00 without actually having personally established that this business man indeed was injured as was claimed. The brother nevertheless engaged lawyers, albeit without my consent, and he did not have any POWER OF ATTORNEY, and the injured man came back the day before the Court hearing. The case was settled out of court, with no moneys changing hand, but this injured business man was furious about the $4,500.00 legal bill incurred on his behalf by his brother. He at least thanked me for refusing to approve of the involvement of the lawyers in this case and assured me he will have his brother to pay the moneys back.

In my view, this was a kind of responsible decision making process as an ATTORNEY where even so I had all the powers required I did not wish to act irresponsible.
Regretfully, there is basically no literature for people who are granting POWER OF ATTORNEY or ENDURING POWER OF ATTORNEY as to what they let themselves in for, and how it could be abused.

Neither would many "**Older Australians**" be aware that an Attorney could basically rob them blind. The person who might be nice may turn into a devil one granted Power of Attorney!

And example is also that , at the time confined to a nursing home, had appointed his daughter with ENDURING POWER OF ATTORNEY, who had several law degrees, and more then $35,000.00 went missing from his accounts, with $1,000.00 or more a day. Obviously, this was not for needs, as he was confined to a nursing home. No records existed any of the moneys was handed in at the nursing home. Just deductions on bank records.
What is now, decided to sue their daughter and engaged a lawyer, but after incurring more then $5,500 legal cost they terminated the lawyer and I was asked to take up the case instead, as they were made aware I assisted people without charge. I took over the case and the out of court settlement effectively came to it that all moneys missing were compensated for in the settlement. Sure, what is now she continues to maintain that she didn't take the money, and I do not doubt she is telling the truth, but the moneys went missing while she alone had access to the accounts and held the ATM card and if she perhaps, even so without intention, allowed the (then) boyfriend (now ex-husband) to steal the moneys then she must be held accountable. For the record, made later known she does not hold it against me for defeating her in the case as she makes clear I acted in the interest of her parents.

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There is really little information for people who are granted POWER OF ATTORNEY how this can result to them being held legally accountable if moneys.

I have found that Commonwealth Department often tend to ignore ENDURING POWER OF ATTORNEY and this even so constitutionally they must accept State legislative provisions.

For example, my wife granted me **ENDURING POWER OF ATTORNEY**, and being married to her I am in an obvious special position, yet, when dealing with Federal government Department I am often told that under the Privacy laws they are not able to discuss matters with me. The fact that the Privacy Law does not override ENDURING POWER OF ATTORNEY seems not something they can comprehend.
My wife is in general recluse and as such prefers me to deal with matters and is upset even having to sign any document because a Department refuses to accept that I sign using ENDURING POWER OF ATTORNEY instead of her.

The "***Privacy Act***" is in my grossly abused and misused by all kinds of companies and government Department as an easy way to opt out of resolving matters.

In one case, a debt collector contacted me asking if I could provide details as to some person. I asked why they wanted to know the persons details and I received the response that because of Privacy laws they could not inform me of this. I responded that because of privacy laws I then neither could provide them with details. That was the end of it.
In this case it was an issue with Telstra which somehow had, in my view, illegally assigned some alleged debt to a "debt collector". As already previous a debt collection agency had harassed me over the phone and in correspondence claiming I had an over $700.- debt with them, despite that I made clear I was not with Telstra, had never resided on the address they referred to and in fact neither had owned that property or ever been there, they nevertheless continued to pursue all kinds of phone calls and threats until I wrote them a letter making clear that within the Victorian Crimes Act I considered their conduct STALKING, and would pursue legal action if they did not stop. They did. Just then later to realise it was a debt someone else had and so sought now to get details from me.
Somehow the "Privacy Act" seemed not to apply to Telstra not to give out my details, where I was neither the account holder or had incurred the debt.

Many people are subjected to this kind of intimidation from Debt collectors, and a clear example is where AGC was sold by Westpac to GE. As I understand it prior to it being sold accounts were closed of or transferred to being a DEBT to a person rather then the person owing the DEBT to AGC. Hence, the value of AGC was considerably reduced. However, after the sale many people started to get demands from debt collectors about debts wowing to AGC (even so it no longer was a legal entity) claiming they were acting for this company and authorised by them, where a manger now employed by GE used the old files.
a financial advisor got a demand for something he had already paid years ago to AGC. So, people are left, right and centre pursued for moneys not at all being a debt. As some current affairs shows explained if they pursue several people of the same name about a debt, and some of them pay it regardless not owing any moneys, then they make a bundle of money. I estimate many millions of dollars, as one case alone was more then a quarter of a million dollars!
See also my forthcoming book about this issue;

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The whole legal process concerning debt collection agencies should be addressed. Not that they can make a claim without proving a debt claim actually is legally justified. "**Older Australians**" may not in time respond to some legal notice and then face getting a Court order issued against them, regardless that there never was a debt.
In my view severe penalties should be provided for against Debt Collectors pursuing people without any legal justified claim and nevertheless swindle the Courts in the process to get an ex parte court order.

The same with the recording of alleged debts against a persons name, regardless that no such Debt may ever have existed, I view that any company that desires to include a person ion a register of bad debt must legally be required to inform the relevant person subject to such notification first of this intention, and if proceeding with this must provide the person with a certified copy. In that manner, the victims will be aware their name is put on a list and they can seek legal redress, if they desire to do so.

Yes, the debt collection agency also made clear if I didn't pay up they would put me on a list and I responded I would sue the hell out of them as I have no debts, and was not willing to give in to their illegal demands. Regretfully, many "Older Australians" and for that matter many younger Australians also may cave in, in particularly if they are faced with a costly delay in another transaction because of the outstanding bogus claim.

Another problem is that lawyers can give whatever advice to people, and now matter how wrong they are the client end up in a huge legal bill.
In one case a man asked me how on earth he could pursue justice where his lawyer advised him he needed at least $6,000.00 to log an appeal. I explained to him that in my view he didn't need that money as an appeal would be inappropriate in the circumstances as it was a decision by a Registrar of the Court and as such the proper way would be to seek a "REVIEW of the Registrars decision. The man went to the Court with the forms completed when his lawyer happen to be there (for another case) and then made known he was wrong to file the document as he should file a CONTEMPT application, so the man there and then filed a CONTEMPT application against the Registrar. He phoned me up that night explaining what he had done. I then recommended he goes back to the Court and speak to a Registrar to withdraw the CONTEMPT application against the Registrar and explain that he wanted the orders of the Registrar being reviewed and to file for this a application for a REVIEW of the Registrars decision. The Registrar subsequently ensured the appropriate application for REVIEW was filed and the CONTEMPT application was withdrawn. Subsequently, the trial judge elaborated on this event and pointed out that an application for REVIEW was in deed the appropriate formal to see a judicial decision of a Registrar to be reviewed as neither an appeal or a contempt application was in place. For the record the man succeeded in his case.
Now, we have here a problems that lawyers are misdirecting a client as to the legal process to be followed but in general can worm themselves out of problems and the client ends up paying the cost, if they loose, because of an incorrect application, of the other party also.

We basically have far too many rules and regulations in a Court and too many laws that people are subjected to an avalanche of legalities and the older a person becomes the more likely they are in to loose the legal fight. What governments and so the Courts also should work to is to streamline matters and to make litigation simplier. Also, if a debt collection agency does obtain court orders by some form of deception the Court provide that the case can return to the Courts and not that legal technicalities prevent JUSTICE to the wronged party.

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Another issue is where I was robbed at home, while at home, with my wallets going missing. My wife, come in to the room and asked me why I had left a drawer in the bedroom lightly out. Firstly, I do not go into drawers containing her personal belongings,. Secondly, I had not been in the room. Thirdly, I would not dare leaving a drawer not fully closed knowing the cursing I get. From her if I did. But, more over, I know she would never do it either. Hence, when my wife asked me about the drawer I immediately responded: I didn't do it and I know you wouldn't so we have been robbed.". I checked for my wallets and moneys and it was all missing. I contacted the police also who (later) despite taking fingerprints could not find any, as they held the burglar(s) must have been wearing gloves. Immediately I called the banks, and cancelled all cards. The problem I found however was that the Bank didn't want to cancel the card because of having given "automatic DEDUCTION" permission to my Internet provider and was advised that they only could cancel the authorisation.

Moment, if I am the grantor then surely I have the right to cancel it to stop the usage of a card that was stolen?

Rightly or wrongly, I view the Commonwealth of Australia should enshrine in legislation that the grantor has every right to cancel an authorisation by giving notice to a bank.

After all, the last thing I wanted was to enable the thief (thieves) to use my credit card!

In particular where companies generally are very slow to act and it may takes weeks or more then I view it is essential that a person can cancel his/her card without delay. After all, if I had there and then cancelled my Internet provider service I would have achieved essentially the same as to cancel the automatic deduction but still the bank would have left it to the provider then to perhaps after it suits the Internet provider to cancel the authorisation. How on earth can the Internet Provider cancel the authorisation instead of the grantor one may ask.

And, this brings us to the next issue. People do use a lot of automatic deductions, for gas, water, electricity, etc and they if they happen to die and left unaware death for years the companies continue to deduct payments. Because companies do keep a record of usage and shows this on an itemised bill, it is my view that companies should have some kind of alarm system build in their billing system that if a bill is about identically to a previous bill it be put on notice for investigation. No one uses the same amount of water every period. No one uses the same amount of electricity ever period. No one uses the same amount of gas every period. Weather conditions, etc, ensures that the usage fluctuate from period to period. Hence, if a bill is in a subsequent period identical then, so to say, alarm bells ought to be ringing. A phone call could be sufficient to check with the user. If in a subsequent period the usage is again identical then legislation should prevent the authority holder to deduct any moneys unless they have established that the user in fact is using it and not that due to errors the usage remains the same. Meaning, if the person is death and lies unnoticed in the house, then the usage will generally remain identical and an identical bill will likely alert to this. When we have people being death for years in their home and no one ever noticed then surely the utility companies should have been aware that bills remained identical in usage. Consider the moneys paid out in pensions that were used up by the utility companies and others after the person was long death.

Medical charges- over charging.

As my wife makes known to me despite being on a pension at age 74 she is generally charged full price or even charged far in excess. For example for injections in her legs the Medicare refund is about $70.00 even so the specialist charges about $270.00. Now there must be something basically wrong when this can occur of an overcharge of about $200.00.

My wife has to visit a specialist and for the first "initial" visit is charged $150.00 and then less for subsequent visits. So, when her doctor writes out another "referral" as the old one has been used up in its 12 months period, then even so my wife attend to the same specialist she is slugged

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an "initial" visit fee of $150.00 because of it being a new referral. Surely, there should be legislation that an "initial visit" must be a one off for the same medical issue one attend to and any further attendance, regardless of the number of subsequent referrals are not to be deemed to be "initial visits".

My wife also gave me the understanding that when she makes known that she has private health insurance then she is charged higher charges then if she merely states she is on a pension. As such, that she uses Private health Insurance for emergencies to have access to a hospital bed or so, Now is used to charge her more then if she had no private health insurance. My wife had considered to cancel her private health insurance and she feels that it in fact is worse for her to spend all this money and end up worse of as she has to pay additional and would be better off without private health insurance.

Private health insurance charges for uninsured in my view is, so to say, also a constitutional misdemeanour where it comes to the charges levied, both taxation wise or by the extra high cost. Constitutionally there is no such thing as the parliament legislating to apply a different taxation rate for people earning the same income. Sure, it is being used in other countries but they do not have the very limited and special constitutional provisions as the Commonwealth of Australia has. As such, it is a constitutional nonsense that people can be charged more tax, by a levy, for not having private health insurance. More over, a person who may have not worked for many years and then wish to enter the workforce and now wish to have private health insurance then is charged a much higher rate. To me this is another nonsense and I understand it causes many not to re-enter the work force and/or not to take up private health insurance as by their older age they can face absurd high charges.

Again, we need an OFFICE OF THE GUARDIAN so that issues like this can be constitutionally based and not we have this kind of nonsense going on.

Constitutionally the Commonwealth of Australia has no legislative powers to demand superannuation levies to be paid by private employers. As the Framers of the ***Constitution*** made clear, the Commonwealth of Australia decide for itself what superannuation it would provide, if any, for its own employees and those being transferred from the State employment to become employed by the Commonwealth of Australia (such as those of the postal services, etc) and that the Commonwealth of Australia was not bound to adhere to the State superannuation system applicable in the colonies (now States). What was clear is that no constitutional powers was given to the Commonwealth of Australia to dictate superannuation levies to anyone other that it could decide superannuation matters for its own employees. In fact, the Framers of the ***Constitution*** also made clear that the Commonwealth of Australia could not allow for a contributing superannuation scheme for people in high places. Hence, head of government Department, judges, etc are not constitutionally permitted to be in such superannuation scheme, likely to seek to prevent corruption. Members of parliament are not employed by the Commonwealth of Australia but are "technically" unemployed if they do not hold a position as being a Minister of the Crown and do not hold any private employment, and neither entitled to any superannuation scheme.

A significant reason why Mr Howe pursued relentlessly through the Constitution Convention Debates that the Commonwealth of Australia was given powers to provide old age pensions was because of the numerous companies that went bankrupt with the investment (superannuation) of many elderly and they were then living off the handout of others. As he made clear the issue of a pension was a national issue, as people within the Commonwealth of Australia would likely earn their income during their lifetime in different States and as such no single State could be held liable for a pension. He also pointed out there was no such constitutional powers to charge against theatre tickets of sport venues taxes to pay pensions.

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We find however that the GST precisely is doing this. We are the elderly being slugged GST and many do not even get a pension because they are employed or self employed and when they are finally going on a pension then have all kind of conditions put upon them that they may have to sell of their life work as the land upon which they reside might have a certain value to deny a pension. Yet, during their lifetime they have paid taxes!

People who do not follow any religious teaching nevertheless find that their taxes are unconstitutionally used to fund the rebuilding of a Catholic Church in Melbourne, as an example, because the treasurer in breach of constitutional limitations hands over millions. Likewise, tax deductions to religious organizations are unconstitutional as well as the tax exclusions of churches. Again, the issue is comprehensively set out in my books and does not need to be fully set out in this SUBMISSION but we should keep en eye on it that with the aging population the monies (from consolidated Revenue) squandered to religious organizations could have been put to a better use.

Likewise, the millions of dollars traded on Sunday markets without proper taxation accountability means that the "**Older Australian**" who has paid faithfully all taxes is worse of then those who are allowed to avoid appropriate taxes to be paid. Being it the former AWB about a million dollar supposed TAX FREE income, which is unconstitutional as the Commonwealth has absolutely no such powers to legislate for anyone to have a special tax free income unless it is a law that applies to all Australians earning the same, or former ministers in highly paid jobs, while having cashed their superannuation, we are facing that "Older Australians" soon be without financial support because moneys were wrongly collected or not collected.

Due to the, albeit ill-conceived 14 November 2006 High Court of Australia judgment, about Industrial Relations matters many of the elderly may now suffer as result to loose their job and/or be employed on wages that are well below what should be paid.

Hansard *27-1-1898* Constitution Convention Debates;

> **We have heard to-day something about the fixing of a rate of wage by the federal authority. That would be an absolute impossibility in the different states.**

And

> **Mr. BARTON: If they arise in a particular State they must be determined by the laws of the place where the contract was made.**

Clearly, the High Court of Australia went beyond its constitutional powers to make a determination in conflict to what the Framers of the *Constitution* intended!

Hansard *31-1-1898* Constitution Convention Debates

> **Mr. SOLOMON.-**
> **We shall not only look to the Federal Judiciary for the protection of our interests, but also for the just interpretation of the Constitution:**

Regardless how proper the intentions of the committee may be, if it nevertheless ignores the various constitutional issues, because perhaps politically it suits them better, then I view it will undermine any good intentions otherwise. Committee members may disagree with what I state but at least let them prove me wrong, keeping in mind that the Federal Government lawyers after a 5-year legal battle were totally defeated.

This **SUBMISSION** may not be well received by politicians but it is setting out facts, that albeit they may not like to be confronted with is based upon constitutional provisions.

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The Commonwealth of Australia can employ any person as to wages and conditions as like any State can do or any private enterprise and as like them is prevented from prevising any tax free income to any employee. The Federal Parliament neither can pass legislation for special Commonwealth of Australia employees to have tax free incomes as it can only pass Bills that are applicable "**for the whole of the Commonwealth of Australia**" and not exclude any part thereof. (As such neither exclude any zone for purpose of the ***Migration Act*** either!)

The above has raised issues regarding constitutional powers and limitations but regretfully politicians entering Parliament unlikely will have a clue what is constitutionally appropriate, regardless if they are lawyers, and more often then not simply toe the line with the leader of the party to vote on Bills regardless how unconstitutional it might be. And, as judges of the High Court of Australia unlikely have any special training in constitutional matters, let alone comprehend what is constitutionally applicable, then the mesh get worse and worse. In the process the "**Older Australian**" ending up with a situation where it all becomes an issue of bankruptcy as all assets are already sold off one way or another.

To assist the "Older Australians" we first have to address what is constitutionally appropriate. A older Australian worried he/she could be deported because (albeit unconstitutionally) the government may simply detain them in unconstitutional Commonwealth Detention Centres itself may underline the havock created by how the Government goes about matters.

As I succeeded in the Courts that the commonwealth of Australia has no constitutional powers to force anyone to vote, then it certainly is in the interest of the "**Older Australian**" to be appropriately notified of this. My wife votes, because of not wanting having to get a criminal record if she gets convicted, even so she is aware that I defeated the Government lawyers in Court. **This, in my view, is terrorism upon my wife to force her to vote, unconstitutionally!**

My wife is so a great extend fearful and this because of the way the elderly are being treated, in particular the bashings and assaults

Tow nights ago, coming home from a friend, down the road, at about 11.45 I confronted a Caucasian young man to be in my front garden and another one just outside the yard, bot dressed in tack suit claiming to be resting from running. The next day however I discovered to have them disturbed in attempting to rob us, as a box was totally ripped open that had been recently stored under the car port. I contacted the local police and reported the matter and spoke to a Constable who advised she would make a report about it. Subsequently happen to talk to my neighbour I was informed they had a mail box from another neighbour. I called the police again suggested the try to get fingerprints, so as perhaps to get to know who might be the culprits. I was advised the police would attend. Well more then 24 hours they never did. While nothing was stolen from us this time and the box damage was not important to us, my wife is obvious in panic mode that the local police seems not to bother about matters. After all, more then likely those involved in crimes are well aware of this. Targeting the elderly therefore is having easy pray. While I am in the process of setting up an elaborate detection recording system, still other elderly people may not be able to do so. It might appear to be a local State government issue but with more and more elderly Australians residing at home it obviously would be better if a Federal parliamentarian inquiry was combined with States inquiries so that relevant matters are attended by the relevant States and not that submissions regarding matters not strictly within the federal arena are then ignored.

During the Jeff Kennett time that he was Premier, I then urged the setting up of a "civil protection" (bescherming bevolking) service, and also pointed out that such a system has been in existence in The Netherlands. There, in case of emergency people use the issued protection parcel to what is needed in the circumstances. The Victorian government then simply did not

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respond to this, albeit we now have, so to say, a different world where terrorism is a daily issue. Besides that, bush fires are in such way that even people in cities are suffering from the smoke. Yet, who is looking after the elderly who may suffer respiratory or other problems but are confined to their home. In the case of any problem, being it a fire or otherwise, that requires evacuation there is no system in place where the elderly who are slow on their feet or those bound to a wheelchair and perhaps without transport then can escape.

It might be an easy solution as to keep government expenditure down to have as much as possible elderly Australians remaining at home but then surely we should have a system in place that ensures that in case of emergency one family in the street is in charge of notifying authorities and/or the elderly in emergencies.

You cannot have the police standing outside some residence waiting for 15 minutes or more to see if there is some elderly resident residing there that may need help. People could be volunteers to keep a street by street updated list and in emergency take appropriate action.

With an aging population the aim should be to set up a system so that anyone who desires and is able to reside at home can do so while in case of need there is an appropriate system in place to provide for this.

Some months ago, we received a fridge sticker in the mail from the Victorian Government about nurses being on call 24/7. Just after receiving it my wife had an incident and I called the service. I can but only applaud the Victorian government for providing this kind of service. This certain goes a long way, not just for the elderly but also anyone else, however there are ample of people who do not have telephone services available, and for them no matter how excellent the 24/7 service might be, in the end it is useless if one doesn't have a telephone. In those circumstances it might be advisable to have some kind of a warning light on a residence where a person can have a light going in case of need and if unable to get to a neighbour. While there might be different State and Commonwealth legislative powers, if they work together to address the issue of the elderly then I have no doubt the right solutions may be found.

Last year, having made a submission, about nursing homes, to Senator Santos, I was pleasantly surprised about the positive response then subsequently received. That is what is needed by the elderly that a Minister, or his staff, address the issues as they are important to those making submissions, irrespective if the Minister can or can't resolve the issues.

There are numerous other issues, such as nursing home services, or the lack thereof, but for the moment I may close this **SUBMISSION** with quoting a document of Chapter 071 of my forthcoming book. After all, **Vivian Alvarez Solon** was wrongly detained/deported and anyone who may at older age start using his/her native tongue (language) can be concerned somehow to end up being detained/deported regardless of their right to be in the Commonwealth of Australia. Mental health never can be used as an excuse of wrongful detention/deportation as if the legal processes are used as the Framers of the ***Constitution*** made clear was applicable then neither **Vivian Alvares Solon**, **Cornelia Rau** or numerous others ever would have been detained let alone deported.

QUOTE "How to be lawfully detained-deported.doc"

Bartlett; **Prime Minister does not understand how our refugee laws work**

Andrew Bartlett, 31 May 2005, national forum, iParliament.

Considering the recent High Court of Australia judgment in the ***Stefan Nystom*** case I can safely say those judges neither do understand let alone comprehend what is constitutionally and otherwise legally applicable.

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Firstly, constitutionally "Australian citizenship" is not a nationality but a political right **AUTOMATICALLY** obtained when one obtains State citizenship. It cannot be applied for neither be granted by any Government.

Secondly, the Commonwealth of Australia was specifically denied any constitutional powers to define/declare citizenship, and as such the term "non-citizenship" in the migration Act is and remains unconstitutional and as such without legal force.

Thirdly, it doesn't matter what previously Senator Button may have pursued, if it ain't constitutionally valid it is ULTRA VIRES. Equality of persons entering the Commonwealth of Australia was never intended by the Framers of the ***Constitution*** and they specifically gave powers to the Federal government to discriminate and even if the Federal government doesn't desire to discriminate it cannot somehow then rob those born in the UK their constitutional rights to enter the Commonwealth of Australia and by residing here obtain **AUTOMATICALLY** "State citizenship" and by this also **AUTOMATICALLY** "Australian citizenship", and by this the right to vote and to be a Member of Parliament.

Fourthly, the framers of the Constitution made clear that the Commonwealth of Australia would be a Ste within a State. Meaning, that it existed as part of the colonies (now States) but as they made clear could never in its own right become an INDEPENDENT identity. It exists because of the states.

Fifthly, the Framers of the ***Constitution*** made clear that "we are alike subject of the British Crown" and as such neither the Federal Government, the British Parliament the High Court of Australia or anyone else can alter this without the consent by way of referendum of the people.

Sixthly, the purported ***Australian Act 1986*** is an utter and sheer constitutional nonsense, as it would be to pretend that somehow the Commonwealth of Australia could enact its own ***Constitution***, even so subsection 51(xxxvii) neither is providing for this, and also without a referendum the ***Constitution*** cannot be substituted merely because some Government may agree to this. If that were to be so it could simply amend the legislation and dispose of the States. Nothing can be further from the truth but that this is a utter and sheer nonsense. The Commonwealth of Australia exist because of the LIMITED political union between the Colonies (now States) as like the European Union exist, and it cannot be changed. Judges of the high Court of Australia who cannot comprehend constitutional provisions or limitations, I view, should not sit at the bench, simple as that.

Seventhly; when a person is alleged to be illegally in the Commonwealth of Australia then the proper protocol and indeed constitutionally required is to be followed and relevant matters to be considered are as follows;

1. The Federal Government, by a decision of the relevant Minister or otherwise conclude that the person is allegedly illegal in the Commonwealth of Australia.
2. The Federal Government then must decide if it desires to have the person formally charged (accused – see Section 120 of the ***Constitution***) or the person is left undisturbed.
3. If the Federal Government desires the person to be detained and/or deported then it can only achieve this by way of having the person formally charged and the matter is placed before the "relevant State Court" which has to make a "judicial determination" if the accused person is to be detained/deported. The Court may deem the person not mentally

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competent and may order a medical assessment and/or may order legal representation if none is present for the accused.

4. If the Court orders detention then the relevant State Government provides the appropriate form of detention, if any, or decides otherwise in which manner it desires to deal with the accused.
5. If the State Court subsequently were to NULLIFY the decision of the Minister and/or the legislative provisions then no appeal lies against this to the High Court of Australia, regardless if legislation may purport otherwise, this, as constitutionally the State Courts have the ultimate power to nullify Commonwealth law enforcement.
6. Despite of the provisions of Section 77 of the ***Constitution*** no Federal Magistrate Court or other Federal Court can hear and determine an issue against a citizen of a State other then if the person accused desires to appeal to a Federal Court from a decision of a State Court.
7. Only by way of a State court judicial order can a person be deported and only after the person has been given an appropriate opportunity to place his/her case before the Courts.
8. No person, not formally charged with any offence against Commonwealth law and neither subjected to any State Court order to detain/deport can be either detained and/or deported.
9. Section 120 was created by the Framers of the ***Constitution*** in view that the Commonwealth of Australia did not exist and neither had any prison facilities and neither was it desired that the Commonwealth of Australia could enforce Commonwealth law against any State citizen, hence "Until the Parliament otherwise provides" was not included in Section 120 of the ***Constitution***. Hence, no Commonwealth Detention Centre and/or prison is constitutionally valid. Any person formally accused or convicted only can be held in detention in a State prison facility or otherwise as the State Court may provide for.
10. No part of the Commonwealth of Australia can have been excluded from the ***Migration Act*** as the Commonwealth of Australia can only make laws for the whole of the Commonwealth of Australia. Hence, any refugee arriving at any part of the Commonwealth of Australia is entitled to all legal rights bestowed on any other person.
11. No Australian citizen can be deported by the Commonwealth of Australia, regardless if this person is wanted overseas in regard of charges or otherwise was convicted of crimes in another country.
12. No Australian citizen can be denied to enter or leave the Commonwealth of Australia other then by State Court order. Any purported legislation that a Minister can deny a person to have a passport for purpose to prevent this person to leave the commonwealth of Australia is tantamount to unconstitutional conduct as it in effect denies the person his/her right to leave. If such conduct was used, then the Minister invalidate the relevant passport legislation as it is used for unconstitutional purposes.
13. Any person who enters the Commonwealth of Australia and is given State citizenship and so Australian citizenship is entitled to all constitutional and other legal rights as any other Australian citizen, other then for whare the person is subject to special (coloured) race legislation specifically enacted against a certain coloured race.
14. The legal position of any refugee to remain in the Commonwealth of Australia ultimately is to be decided by "judicial decision" by a State Court, regardless if the Minister exercised powers to order the detention/deportation or otherwise Commonwealth law may demand this. There is constitutionally no powers for the Commonwealth of Australia to enforce its own laws and neither to hold anyone in detention or deport any person.
15. Constitutionally neither the Department of Immigration and or the Australian Federal Police and/or other federal organization (ASIO, etc) can exercise any powers within the territory of a State where State sovereign rights are applicable. As such, the apprehension

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of alleged illegal refuges/migrants, or whatever term might be used, is unconstitutional unless exercised by State authorities within State jurisdiction.

16. The moment any person is subjected to any Commonwealth law, being it ***Migration Act*** or otherwise then the person is entitled to all other laws relevant and cannot be excluded to access of such laws. As such, for constitutional purposes a person arriving at some Island and subjected to the ministers deportation order, for whatever reason, then the minister clearly having invoked Commonwealth powers by this cannot exclude this person from any relevant Australian legal provisions, the right to have the matter heard and determined before a State Court and a decision to be made by a "judicial determination".
17. the Commonwealth of Australia cannot apply the so called "**Henry the Eight**" powers as to apply different provisions , as while they were applicable in the UK the Framers of the Constitution did not embed those in the Constitution but specifically ruled it out to be used by making clear that only the States could determine the faith of any person accused by the Commonwealth of Australia to be in breach of Commonwealth law. The so called "Henry the Eight" powers gave the British Government powers to amend the legislation enacted by the British Parliament where it deemed required to do so in special cases. This power inadvertendly appears to be accepted by the High Court of Australia to be granted to the Federal Government when making up rules to exclude certain islands of the Migration zone but it clearly is an error in judgment as it was specifically denied by the Framers of the ***Constitution***.
18. Constitutionally, the European Human rights Act is and remains applicable as the ***Commonwealth of Australia Constitution Act 1901*** (UK) being a British Act therefore attracts this ***Human Rights Act***. The ***Westminster Act*** purportedly stopping any British law to be applicable is contrary to what is embedded in the ***Constitution*** and as such a constitutional nonsense.
19. As the Framers of the ***Constitution*** made clear, citing the Privy Council ***Toy*** case, that the Commonwealth of Australia had the constitutional right to prevent any alien from entering the Commonwealth of Australia but once the alien had entered then the States and only the States could order the deportation of the person by judicial decision of a State Court. For constitutional purposes once they were in the Commonwealth of Australia they were entitled to all legal benefits of any other person unless they belonged to a coloured race against which in Section 51(xxvi) of the ***Constitution*** a special legislation was enacted against all members of that race, by which each and every person of that race would be subjected to and any person of that race holding State citizenship (and so Australian citizenship) would then lose that citizenship, so the right to vote and the right to be a Member of Parliament. This to be considered with the passing of the ***Racial Discrimination Act 1975***, which albeit is unconstitutional being against the GENERAL COMMUNITY and not against a specific COLOURED race in effect caused every person to loose citizenship. Hence, on that bases every person in the Commonwealth of Australia is deemed to be a "non-citizen" the author successfully argued this on appeals on 19 July 2006, and this was unchallenged by the government lawyers!
20. Where the Commonwealth of Australia has been a signature to the treaty to allow refugees to pursue political or other asylum then constitutionally, regardless if the ***Migration Act*** may purport otherwise, such a person cannot be detained and/or deported unless a State Court by "judicial determination" has established that the person is found to be in breach of Commonwealth law in the Commonwealth of Australia and should be ordered to be detained and/or deported.
21. Any child, other then of parents who are on diplomatic mission in the Commonwealth of Australia, born within the realm of the King/Queen is a natural subject and attracts by this

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the nationality of the Monarch regardless of the Status of its parents being aliens or not. A child born to so called "illegal refugees" (No such legal term is constitutionally justified, nevertheless is for all purposes a natural born subject and cannot be deported. As embedded in the ***Constitution*** any person born or naturalized in the Commonwealth of Australia is a subject of the British Crown and is an "**Australian**" with "**British nationality**". The Commonwealth of Australia never had and still does not have any constitutional powers to amend or otherwise alter the application of Subsection 51(xix) of the ***Constitution*** that was granted by the British Parliament to naturalize "aliens" to be "British nationals". Because it is embedded in the ***Constitution*** without any referendum to approve otherwise Subsection 51(xix) remains applicable as was at federation and the purported "Australian citizenship" as a nationality is a constitutional nonsense and each and every person born or naturalized in the Commonwealth of Australia remains a "**British national**"!

The above may make clear that Heather Hill was, contrary to the High Court of Australia decision in ***Sue v Hill***, an Australian citizens as by the time she came to reside in a State she obtained **AUTOMATICALLY** State citizenship and so also **AUTOMATICALLY** Australian citizenship" without needing to apply for this.

<u>While it might serve various governments, of whatever political union, to deport people, they have to keep in mind that soon or later the Commonwealth of Australia may face a huge compensation bill where people were wrongly detained/deported.</u>

I have in my various books recommended the establishment of an <u>OFFICE OF THE GUARDIAN</u>, a constitutional council, that advises the government, the people, the parliament and the Courts as to constitutional powers and limitations.
It is absurd that judges hand down judgment as to how the ***Constitution*** applies pending "contemporary views" as the Framers of the ***Constitution*** made clear that Section 128 was there so that if contemporary views dictated it the People could pass a referendum to amend the constitution as they desired. It is not and never was a constitutional power for the High court of Australia to exercise and any decision purporting to do so is NULL AND VOID (**ULTRA VIRES**).

<u>While Andrew Bartlett may have a go about John Howard it should be kept in mind that in my view not a single Member of Parliament actually understands let alone comprehend what is constitutionally applicable in certain constitutional matters such as CITIZENSHIP, subsection 51 (xxvi), etc, this regardless of the many lawyer in the Parliament.</u>

It is for this that an <u>OFFICE OF THE GUARDIAN</u> could stop this rot and for once and for all could ensure that everyone gets the same untainted and unbias information, regardless of being a Member of the Public, a Member of Parliament, etc.

Judges then would be able to avail themselves to the same information anyone else can obtain and no longer have to rely upon just what their legal researches can come up with.

If people are unconstitutionally deported, regardless that in law it may be perceived to be legally proper being the legislation itself being unconstitutional, then not a single member of parliament can praise himself/herself to represent the electorate when not bothering to ensure this does not occur or at least does not continue to happen.

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In my view **Stefan Nystom** was wrongly deported! His convictions were no excuse not to follow proper legal procedures as embedded in the ***Constitution***! **Vivian Alvarez Solon** is a clear example the consequences to not following constitutional requirements.

What should be understood is that the Commonwealth of Australia is , so to say, representing the interest of the States for so far it was granted legislative powers, and the framers of the ***Constitution*** held that the States therefore ultimately had the final word if they desired to accept Commonwealth law or would **NULLIFY** it. They made also clear that the Commonwealth of Australia would have no powers as to religion and civil property matters and neither would have any social legislative powers.
Albeit, for example, the ***Family Law Act 1975*** does address about all of these matters as associate powers the truth is that it is a wrong perception and is and remains unconstitutional in numerous ways.
Likewise, Section 245 of the ***Commonwealth Electoral Act 1918*** as to compulsory voting, which I successfully defeated in legal proceedings.

Politicians can maintain their ignorance and use and misuse unconstitutional legislation for their means or they may just accept that they are to represent the general community of their electorates and obligated to appropriately represent them including to refuse to use and misuse unconstitutional legislation and to ensure that finally some sense is made out of the constitutional and legal maze by having the OFFICE OF THE GUARDIAN created.

See also www.schorel-hlavka.com for other details/information regarding constitutional issues.

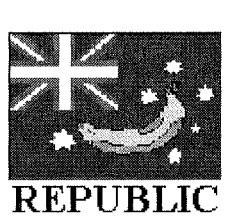
G. H. Schorel-Hlavka Grandmaster "constitutionalist"

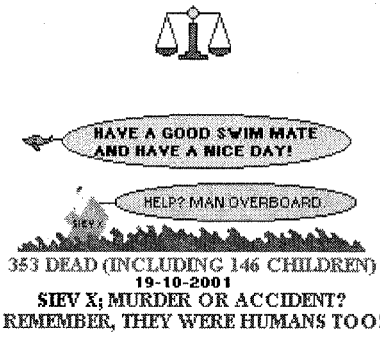
END QUOTE "How to be lawfully detained-deported.doc"

Please note that this submission is not intended and must not be perceived to have matters stated in order of importance and neither refers to all issues but merely is a **SUBMISSION** of a limited nature to at least bring certain matters to attention of the Committee.

For the record, this **SUBMISSION** will be published in time in my forthcoming book also.

Awaiting your response, — **G. H. SCHOREL-HLAVKA**





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